

hours at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 West, 1301 Constitution Avenue, NW., Washington DC; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630.

FOR FURTHER INFORMATION CONTACT: Brendan McCahill, (617) 918-1652; e-mail at McCahill.Brendan@EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

On January 21, 2003 (68 FR 2722), EPA published a notice of proposed rulemaking (NPR) for the state of Connecticut. The NPR proposes approval of the revisions to section 22a-174-1, "Definitions," section 22a-174-2a, "Procedural Requirements for New Source Review and Title V Permitting," and section 22a-174-3a, "Permit to Construct and Operate Stationary Sources." The formal SIP revision was submitted on June 14, 2002.

Provisions in these rules that only affect programs other than PSD and NSR have not been incorporated into the SIP by today's action. For details, please contact the EPA regional office at the address given above. Furthermore, EPA is not taking action on portions of DEP's submittal that address NO_x increments. This aspect of the PSD Federal implementation plan remains in effect (see 40 CFR 52.382). The DEP has submitted other changes to the increment provisions of its SIP. EPA anticipates taking action on the NO_x increments and these other changes in a future action.

EPA has recently promulgated revisions to certain portions of the Federal PSD and nonattainment NSR regulations (67 FR 80244 (Dec. 31, 2002)). These rules have an effective date of March 3, 2003. With respect to Connecticut's rules relating to new source review, EPA has determined that Connecticut's rules meet the requirements of 40 CFR part 51, subpart I, as currently in effect, and is taking no position on whether Connecticut will need to make changes to its new source review rules to meet requirements that EPA has promulgated, but are not yet effective, as part of new source review reform.

In addition, while EPA is approving Connecticut's PSD SIP, EPA recognizes that it has a responsibility to insure that all States properly implement their

preconstruction permitting programs. EPA's approval of Connecticut's PSD program does not divest the Agency of the duty to continue appropriate oversight to insure that PSD determinations made by Connecticut are consistent with the requirements of the CAA, EPA regulations, and the SIP. EPA's authority to oversee PSD program implementation is set forth in sections 113, 167, and 505(b) of the Act. For example, section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) provides for administrative orders and civil actions whenever EPA finds that a State "is not acting in compliance with" any requirement or prohibition of the Act regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

The specific requirements of Connecticut's SIP revision and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

II. Response to Comments

EPA did not receive any comments during the comment period.

III. Final Action

EPA is approving the SIP revision submitted by Connecticut on June 14, 2002 as a revision to the SIP.

IV. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose

any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress